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Bill to jail spy-namers is near enactment

Washington (AP)—The Senate cleared the way yesterday for approval of legislation under which journalists and government officials could be jailed or fined for publicly disclosing the names of covert American intelligence agents.

The proposal is strongly supported by President Reagan as a means of preventing terrorist attacks on Central Intelligence Agency agents overseas.

Some senators, journalism societies, and groups such as the American Civil Liberties Union condemned the proposal as a direct attack on the free-press provisions of the First Amendment.

Enactment of the measure has been delayed for months by disagreement over how difficult it should be for a prosecutor to build a case against a journalist who names a covert agent in print.

The Senate resolved that issue yesterday, voting 55-39 to approve a version that would allow a journalist to be convicted provided the jury has "reason to believe" the identification of an agent would disrupt intelligence operations.

A final vote on the legislation was delayed, probably until today.

A competing version recommended by the Senate Judiciary Committee and Senator Joseph R. Biden, Jr. (D. Del.) would have required a jury to conclude that a reporter intended to disrupt U.S. intelligence operations.

"The wholesale disclosure of agents' names is something we just cannot tolerate," said Senator John H. Chafee (R, R.I.), chief sponsor of the amendment that passed.

Charles Novitz, president of Sigma Delta Chi, an organization of journalists, said the measure is unconstitutional and will have a "chilling effect on the reporting of U.S. activities overseas. This bill strikes at the right of Americans to monitor their government."

Jack Landau, director of the Reporters Committee for Freedom of the Press, complained that "this bill allows for the prosecution and jailing of news reporters and authors for identifying agents or their sources, even if the agent or the source is breaking federal law, or is violating presidential policy, or even if their names come from public records.

"The First Amendment," Mr. Landau said, "only permits the conviction and jailing of news people for publishing information which is a direct, immediate and irreparable injury to the national security, and does not permit prosecutions for disclosing information which is merely embarrassing or causes some discomfort to the government."

Mr. Biden said federal prosecutors should be required to show that a reporter deliberately set out to "impair or impede" legitimate American intelligence operations.

A supporter of the intent standard, Senator Daniel Patrick Moynihan (D, N.Y.), said, "We are not enacting this bill to ease the burden of U.S. attorneys."

Unsuccessfully urging defeat of Mr. Chafee's amendment, Mr. Moynihan said Congress should make a clear distinction between "a person who engages in the business of naming covert agents and a journalist who reveals names as part of a legitimate news story."

The Agent Identities Bill, approved by the House last fall, was first proposed four years ago when former CIA officers like Philip Agee began naming names and locations of undercover intelligence agents in various countries.

The best-known case was the assassination of Richard Welch, the CIA station chief in Athens, in 1975, whose name appeared in an anti-CIA publication. Critics of the legislation say, however, that Mr. Welch was identified as working in Latin America and claim that his house in Athens was well known as under CIA control.

There have been similar attacks

on CIA agents and their families in Jamaica and other countries.

The legislation seeks to crack down on publications like the Covert Action Information Bulletin, which has made public agents' names as part of a campaign to limit or abolish covert operations by the CIA.

Mr. Biden and other critics of the lesser burden of proof say it is possible that a reporter might be prosecuted for exposing legitimate CIA abuses.

Recently, for example, there were stories about former CIA agents, Francis E. Terpil and Edwin P. Wilson, who set up a secret, private arms-selling operation in Libya.

Shortly after the vote, Mr. Chafee said the legislation would not permit prosecution of journalists who expose illegal or improper actions by the CIA.